

REMARKS

Claims 1-2, 4-10, 15-17, 19, 27-31, 33, 41, 46-59 and 74-82 are pending in the present application. Claims 5-7, 15-16, 19, 27-31, 33, 41, 46-47, 53, 55-59 and 74-82 have been withdrawn from consideration. By virtue of this response, claims 4-8, 15-16, 19, 27-28, 52-53 and 74-82 have been cancelled, claims 1, 9-10, 17 and 54 have been amended and no new claims have been added. Accordingly, upon entry of the present amendment, claims 1-2, 9-10, 17, 48-51 and 54 are under consideration.

Support for the amendment of claim 1 can be found at paragraphs [0007], [0292] and [0315] of the specification and previously pending claim 8. Claims 9-10, 17 and 54 are amended to correct claim dependencies and/or antecedent basis. No new matter is added.

With respect to the cancellation and amendment of claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover, have not acquiesced to any rejections and/or objections made by the Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation, continuation-in-part, and/or divisional applications.

Claim Objections

Claim 1 stands objected to because of the following informalities: claim 1 employs acronyms for SCR and CR2 that should be spelled out the first time they appear in the text of the claim.

In response, claim 1 has been amended to include the full names originally listed as acronyms. Support for the amendment can be found in the specification at paragraphs [005] for SCR and [009] for CR2, respectively.

Claim Rejections – 35 USC § 112

Claims 1-2, 4, 48-51 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner states that the “Applicant is invited to amend the claim to recite the elected invention, i.e., CD59 as the modulator to obviate this rejection.” Page 3 of the Office Action.

Solely in an effort to expedite prosecution and without acquiescing to the Examiner’s rejection, claim 4 has been cancelled and claim 1 has been amended to recite “wherein the modulator comprises CD59.” Claims 48-51 depend from claim 1 either directly or indirectly. Applicants respectfully submit that the rejection for lack of written description is obviated by the claim amendment.

Accordingly, Applicants respectfully request that the rejection under 35 USC § 112, first paragraph be withdrawn.

Double Patenting

Claims 1, 2, 4, 8, 17, 48-52 and 54 stand provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-4 of copending Application No. 11/997,650. Claims 4, 8 and 52 have been canceled.

Applicants submit that they will address this issue when the claims are deemed otherwise allowable and if the grounds for double patenting continue to exist in the allowed claims. Until then, Applicants respectfully request that the provisional nonstatutory obviousness-type double patenting rejections to the claims be held in abeyance.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of and objections to the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 577712000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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